

Robert N. Joehnck
Attorney At Law

26955 Table Meadow Rd.
Auburn, CA 95602

530.269.1882
530.269.1853 (fax)

December 1, 2009

Sustainable Communities Planning Grant and
Incentives Program
c/o The Department of Conservation
Office of Sustainability
801 K Street, MS 24-01
Sacramento, Ca 95814

Re: Draft Grant Guidelines and Application

Gentlepersons:

I have several comments on your draft guidelines and applications (G&A). These are at least partly based on having worked on issues dealt with in the G&A in the context of rural California communities, specifically those in the Sierra Nevada. I wish to state also that these comments are made as a member of the public and not on behalf of any organization or governmental agency with whom I have worked or with whom I am presently working. They are also the observations of an attorney who has been involved in land use, planning and environmental issues most of my professional life.

There is at least one major criterion listed under "Priority Considerations" that seems counter-productive at best. That is the awarding of 5 possible points for an application "supplemented with additional funds". There is no statutory requirement that I can locate that requires this item to be included in the G&A. Most of the rural communities with which I am familiar are not going to have the capability of providing significant resources to the planning process anticipated by the G&A, but rather look to the funding to be made available through this process to provide all of the significant funding for that process.

It does not make sense to require "disadvantaged and severely disadvantaged" communities to have to provide a "match" in order to qualify for planning funds. Where "match" requirements were placed into other parts of Proposition 84 funding programs, they are allowed to be "waived" for these types of communities. If the Strategic Growth Council (SGC) is concerned about the capabilities of applicants to satisfactorily complete a planning program funded by a grant, surely the "Organizational Capacity" scoring suggested by the G&A is the place to do this. Dropping any requirement for "matching" funding resources would then also eliminate references to them found on pages 7, 14, 34, and

possibly the modification of item 4 in the proposed "certification" resolution on page 37.

A related issue dealing with the economics of the process envisioned by the G&A is the withholding of contract disbursements by the SGC of 15% of amounts invoiced (p.16 of the G&A). This is again a counter-productive measure when dealing with most rural communities, let alone those that are disadvantaged or severely disadvantaged communities. The State does not require more than a 10% retention on its own public works contracts, and 15% seems clearly excessive. Since the payments are being made on a "reimbursement" basis only, so that a grantee has already advanced 100% of an invoiced payment when the invoice is submitted to SGC, it would seem more appropriate if an incentive to complete the work called for under a grant agreement, to provide a 5 or 10% retention of the final amounts to be paid under the contract, until SGC is satisfied that all work called for in the agreement has been satisfactorily completed.

While I hesitate to be critical of a planning process that is finally explicitly addressing the issues of public health, I do not find the provisions of the G&A dealing with public health (p.31) particularly useful or helpful. They currently tend to overlap concerns (parks and recreation, housing, transportation) that are really the provenance of other categories under the proposed G&A. Additionally, they do not really address "planning" for health facilities, clinic distributions, attracting general medical practitioners to locate in rural areas, the provision of specialist services, coordination of hospital services, or planning for life flight and emergency medical delivery, all of which are pertinent to rural areas, particularly those that are widely dispersed within any particular geographic area.

Of importance, nothing works in sustainable communities' planning unless there is an economic base to support the communities in question. SGC should be explicit in the G&A that economic development and job retention and development planning is part of the sustainable communities planning process. At present, there is no separate category of economic viability listed as part of the SGC proposals, although economic health issues are dealt with tangentially in a number of different planning categories in the G&A.

Lastly, the definition of "community" may require some clarification. For example, if the planning process is to be as broad as possible, encompassing whole counties or perhaps several counties, how would such counties be classified if some of their "community centers" were disadvantaged and others were not, or if the county had one major center that was flourishing and thus disqualifying the county from itself being classified as "disadvantaged", even though the majority of its community centers and population met the threshold requirements for being classified as disadvantage?

Your staff is to be commended for its efforts to date and in this process for getting the SGC to the point it is under what may euphemistically be classified as trying circumstances.

Respectfully,

Robert N. Joehnck

